

**MINUTES OF THE SPECIAL MEETING OF THE
ARIZONA STATE RETIREMENT SYSTEM BOARD**

**HELD ON
Thursday, December 13, 2001
7:30 a.m. MST**

The Arizona State Retirement System (ASRS) Board met in the 14th Floor Conference Room of the ASRS office at 3300 North Central Avenue, Phoenix, Arizona 85012. Mr. Jim Bruner, ASRS Board Chairman, called the meeting to order at 7:30 a.m., MST.

The meeting was teleconferenced to the ASRS office, 7660 East Broadway Boulevard, Suite 108, Tucson, Arizona 85710.

1. Call to Order; Roll Call.

Present: Mr. Jim Bruner, Chairman (via telephone)
Mr. Norman Miller, Vice Chairman
Dr. Merlin DuVal (via telephone)
Dr. Chuck Essigs (via telephone)
Ms. Bonnie Gonzalez (via telephone)
Mr. Alan Maguire (via telephone)
Mr. Ray Rottas

Excused: Mr. Jim Jenkins
Mr. Karl Polen

A quorum was present for the purpose of conducting business.

2. Presentation, Discussion and Appropriate Action Regarding the Defined Contribution (DC) Plan Design Documents

Mr. Alan Maguire, Chairman, DC Plan Board Committee, reported that Board members have all seen and discussed with staff the parameters of the DC Plan, which is intended to provide another way for public employees to save money for retirement.

Mr. Norman Miller asked whether the plan is unalterable as currently constructed. Mr. Maguire answered that the goal of the design document is to have an outline in place in order to solicit a vendor to implement the plan. Minor changes to the document can be made as the plan moves forward.

Mr. Miller asked if, rather than becoming vested over five years (20 percent per year), participants could

be vested over four years (25 percent per year), in concert with the terms of office of elected officials. Mr. Chuck Whetstine, Counsel, noted that the five-year vesting schedule is contained in the statute, but it could be changed. Dr. Merlin DuVal asked if the statute was written so there are not discrepancies with other public plans. Mr. LeRoy Gilbertson, Director, answered that, for example, the Elected Officials Retirement Plan has a five-year vesting schedule, and this plan was designed to coincide with that.

Mr. Miller asked whether a one-year lock-in period for contributions is too stifling for employees who may face unanticipated financial difficulties. Mr. Gilbertson responded that the ASRS is requesting an Internal Revenue Service (IRS) private letter ruling to allow the one-year period. With most plans of this type, participants are locked in for the length of employment. Mr. Whetstine concurred and added that in order to get contributions on a pre-tax basis, the ASRS must convince the IRS that participants have divested themselves over their earnings so that it can be considered employer contributions. The IRS has not ruled yet, but currently there are no IRS-approved plans that have less than or as short as one year. Mr. Maguire reiterated that the ASRS is trying to be as aggressive and flexible as possible and that is why the committee took a stance on a one-year period.

Mr. Ray Rottas noted the current economic situation and advised that the Board must be careful in implementing this new program so that the cost is not so prohibitive that it impacts the current defined benefit program. He believes that with a potentially high volume of participation and the initial cost impact, the plan should be administered by a third party. Mr. Maguire commented that the committee discussed this issue at length and is looking for alternative techniques to spread initial costs over a longer period of time. This will be a consideration in selecting a vendor, and the plan will likely evolve over time.

Mr. Rottas also expressed concern over the use of the term "trustee" in the plan. He believes the trustee is the governor and legislature, and the ASRS is not in a position to take over the economic responsibility of trustee. Mr. Miller commented that the Board has a fiduciary responsibility in the operations of any contribution plan. There have been many cases where members have sued a system or board over lack of educational awareness and investment direction. So regardless, the Board is accepting a significant fiduciary responsibility with this plan.

Mr. Miller also asked about the administrative and operating costs of the program. Mr. Maguire responded that the intention of the plan is to issue a request for proposal (RFP) for a single vendor to provide three services: offering investment vehicles and record keeping for participants, and providing education to potential participants. The cost burden will fall on participants of the plan via a participation fee, which will cover costs. Mr. Miller noted that the RFP responses should delineate the costs for the ASRS, the vendor and participants. He also remarked that the costs of the DC plan should not be incurred by the ASRS Defined Benefit plan. Either the costs should be borne by the participants and the DC plan itself or a legislative appropriation should be sought.

Mr. Whetstine explained the purpose of the term "trustee." In order to have a qualified 401(a) plan under the federal tax code, there must be a funding medium of either a trust or an annuity. The ASRS statutes state the monies will be held "in trust." He recommended that the DC plan be specific about the role of a trustee because the IRS usually defers to what is in statute. The plan suggests naming the Board as trustee, primarily for cost savings, as opposed to going to an outside bank or other private fiduciary, and ultimately fiduciary responsibility comes back to the Board. Mr. Ray Rottas disagreed and noted that the Arizona

State Legislature, which passed the legislation creating the plan, is the trustee; the Board is just the administrator and assuming the role of trustee puts the Board in a tenuous position. Mr. Whetstone responded that many vendors who may bid on the RFP have affiliates that serve as trustees and, depending on the Board and staff decision, that possibility may be a consideration in the selection process.

Motion: Mr. Alan Maguire moved to approve the Defined Contribution (DC) Plan Design, as distributed to the Board members in their materials.

Dr. Chuck Essigs seconded the motion.

By a vote of 7 in favor, 0 opposed, 0 abstentions, 2 excused, the motion was approved.

3. Presentation, Discussion and Appropriate Action Regarding the DC Plan Administration Elements and Issuance of a Bundled DC Vendor Request for Proposal

Mr. Maguire reported that the DC committee looked at different ways to issue an RFP and, in examining the market place, determined that the most cost-effective approach is to issue a bundled RFP so that a single vendor will provide the investment, record keeping and educational services.

Motion: Mr. Alan Maguire moved to authorize the ASRS staff to issue a Request for Proposal (RFP) for a bundled Defined Contribution Plan vendor contract.

Mr. Norman Miller seconded the motion.

By a vote of 7 in favor, 0 opposed, 0 abstentions, 2 excused, the motion was approved.

4. Board Requests for Agenda Items

Mr. Norman Miller requested Board members provide him with suggestions for legislative initiatives.

5. Call to the Public.

There were no requests to speak from the Phoenix or Tucson public.

Mr. Fred Stork, Assistant Attorney General, addressed some points in the DC plan document. He noticed the plan calls for the appointment of a committee to be the day-to-day operator of the plan. The statute authorizes the Board to delegate certain authorities to the director. He recommends that in place of the committee, the word "director" be substituted, with an instruction that the director name an advisory committee to assist him.

Mr. Stork also suggested the plan include a provision that makes the Board the final decision maker in the event of any dispute regarding the interpretation or administration of the plan. A member or employer

would be entitled to a hearing in front of the Board, on the record. If the dispute ends up in court, the judge will be reviewing the record of the proceedings at the Board level and giving weight to the Board's decision, rather than deciding on his/her own interpretation.

Mr. Maguire agreed that Mr. Stork's points should be incorporated in the plan.

Motion: Mr. Alan Maguire moved that the Board reconsider its action wherein it adopted the Defined Contribution Plan Design.

Dr. Merlin DuVal seconded the motion.

By a vote of 7 in favor, 0 opposed, 0 abstentions, 2 excused, the motion was approved.

Motion: Mr. Alan Maguire moved that the Board approve the Defined Contribution Plan Design, as distributed in the materials to the Board, along with the changes Mr. Stork recommended.

Dr. Chuck Essigs seconded the motion.

By a vote of 7 in favor, 0 opposed, 0 abstentions, 2 excused, the motion was approved.

Mr. Ray Rottas complimented staff in putting together the program.

6. The next regular ASRS Board meeting is scheduled for Friday, January 18, 2002, at 8:30 a.m. in the 10th Floor Board Room of the ASRS office at 3300 North Central Avenue, Phoenix, Arizona 85067-3910.

7. Adjournment of the ASRS Board.

Mr. Jim Bruner adjourned the December 13, 2001 meeting of the ASRS Board at 8:05 a.m.

Respectfully submitted,

Maurah Harrison, Secretary

Date

LeRoy Gilbertson, Director

Date